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ARKANSAS DEPARTMENT OF HEALTH  
COSMETOLOGY SECTION  
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 21st day  
of July 2014, the meeting of the Arkansas Department of  
Health, Cosmetology Section, Cosmetology Technical  
Advisory Committee was held, at 9:00 a.m., at the  
Arkansas Department of Health, Freeway Medical Building,  
Suite 801, Little Rock, Pulaski County, Arkansas.

---

TECHNICAL ADVISORY COMMITTEE:

TRISH ANDERSON, Chair  
KIMBERLY FORD  
CYNTHIA STEELE  
JESSICA PECK  
ANGELA JACKSON  
JESSICA PECK  
WENDY SULLIVAN  
ADRIAN TABB

REPORTED BY:

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1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 ELIZABETH PITMAN, ESQ.

4 HEARING OFFICER:

5 KENDRA AKIN JONES, ESQ.  
Office of the Attorney General  
6 323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
7

8 Office Staff:

9 Kelli Kersey, Section Chief  
Elizabeth Pitman, ADH Attorney  
10 Rick Hogan, ADH Attorney  
Teri Preachers, Business Operations Specialist  
11 Amanda Weeks, Examination Coordinator  
Kathryn Kersey, School Liaison  
12 Renee Mallory, ADH Branch Chief, Health  
Systems Licensing and Regulation  
13 Kenneth Roberts, Inspector Supervisor  
Roselyn Smith, Inspector  
14 Sondra Jones, Inspector  
Christopher Nicklaus, Inspector  
15 Lavonne Lester, Inspector  
Vera Wood, Inspector  
16

17 Court Reporter:

18 Susan B. Whitson, CCR  
Arkansas Supreme Court Certificate No. 158  
19  
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## P R O C E E D I N G S

The meeting of the Department of Health CTAC was called to order. Present are: Office Staff: Kelli Kersey, Section Chief, Elizabeth Pitman, ADH Attorney, Rick Hogan, ADH Attorney, Teri Preachers, Business Operations Specialist, Amanda Weeks, Examination Coordinator, Kathryn Kersey, School Liaison, Renee Mallory, ADH Branch Chief, Health Systems Licensing and Regulation, Kenneth Roberts, Inspector Supervisor, Roselyn Smith, Inspector, Sondra Jones, Inspector, Christopher Nicklaus, Inspector, Lavonne Lester, Inspector, Vera Wood, Inspector; Technical Advisory Committee: Trish Anderson, Chair, Kimberly Ford, Cynthia Steele, Jessica Peck, Angela Jackson, Wendy Sullivan; Kendra Akin-Jones, Hearing Officer; Jennifer Merritt, Assistant Attorney General for the State of Arkansas; General Public: Alan Anderson, Carla Jones, Lizzy Smith, Justin Nguyen, Jenita Hughes, Chris Strawn, Tracy Akard, Robert Kelley.

Motion made by Wendy Sullivan to approve the minutes from the previous meeting as they stand; second by Kimberly Ford; passed unanimously.

Motion made by Wendy Sullivan to approve the paid violations; second by Angela Jackson; passed unanimously.

Jennifer Merritt explained her role in representing

1 the Department of Health officials and the CTAC in a  
2 pending lawsuit involving Natural Hair Styling, and gave  
3 her contact information.

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ADMINISTRATIVE HEARING

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

v.

BEST NAILS

RESPONDENT

MS. ANDERSON: Are you ready to start?

Okay. We'll just turn this over to you,  
Elizabeth, and let you proceed.

HEARING OFFICER JONES: Is there anybody  
here with Best Nails?

MS. ANDERSON: Yes.

HEARING OFFICER JONES: Best Nails?

Justin Nguyen.

MR. NGUYEN: Yeah.

HEARING OFFICER JONES: If you will, come  
up here and have a seat at the end of the  
table, please.

This is the first hearing in the packet  
for the board.

My name is Kendra Akin -- Kendra Akin  
Jones, and I'm the Hearing Officer today in the  
matter of the Arkansas Department of Health  
versus Best Nails, which is to be heard before  
the Arkansas Board of Cosmetology Technical



1           Advisory Committee. Today is Monday, July 21,  
2           2014.

3           Would the respondent please identify  
4           yourself for the record.

5           MR. NGUYEN: My name is Justin Nguyen, and  
6           I own Best Nail Salon.

7           HEARING OFFICER JONES: Will you please  
8           spell your last name for the record.

9           MR. NGUYEN: N-g-u-y-e-n.

10          HEARING OFFICER JONES: Thank you very  
11          much.

12          And, Mr. Nguyen, are you -- are you  
13          represented by an attorney today?

14          MR. NGUYEN: No, huh-uh.

15          HEARING OFFICER JONES: Okay. And you  
16          received a copy of the Order and Notice of  
17          Hearing for today's matter?

18          MR. NGUYEN: Because I wasn't there the  
19          other day, but he's in here say I work that  
20          day.

21          HEARING OFFICER JONES: But did you get a  
22          copy of this document here?

23          MR. NGUYEN: No.

24          HEARING OFFICER JONES: Then how did you  
25          know to be here today, sir?

1 MR. NGUYEN: Oh, I get the mail.

2 HEARING OFFICER JONES: Okay. So  
3 that's -- that's your Order and Notice of  
4 Hearing to be here today?

5 MR. NGUYEN: I did know.

6 HEARING OFFICER JONES: Okay. Board's  
7 counsel, if you would please identify yourself  
8 for the record.

9 MS. PITMAN: I'm Elizabeth Pitman,  
10 attorney for the Department of Health.

11 HEARING OFFICER JONES: Thank you,  
12 Ms. Pitman.

13 For the benefit of those present who may  
14 not have appeared before in an administrative  
15 hearing, the board will base its decision on  
16 evidence that is presented here today, and that  
17 means anything that you have in your possession  
18 that you want to -- the board to consider while  
19 making a decision, you need to be submit into  
20 evidence. The hearing is held under the  
21 Administrative Procedures Act, which means that  
22 the district rules of evidence do not apply, I  
23 will try to keep the hearing running as  
24 smoothly and efficiently as -- as possible. If  
25 there -- the hearing is open to the public

1           under the Freedom of Information Act, so that  
2           means that all parts, including deliberations,  
3           will be open to the public. Please be sure you  
4           give verbal responses, and speak clearly and  
5           loudly enough for our court reporter to hear  
6           you.

7           For those of you who are going to be a  
8           witness in today's matter, if you would,  
9           please, raise your right hand to be sworn in.  
10          Mr. Nguyen, this includes you. Please raise  
11          your right hand, yeah. Then whoever for the  
12          board, okay.

13          (WHEREUPON, the witnesses were sworn by  
14          the Hearing Officer.)

15          HEARING OFFICER JONES: Very well.

16          Ms. Pitman, any preliminary matters?

17          MS. PITMAN: I believe there is a 21-page  
18          packet, under the first tab with this one, I  
19          would just like to introduce into the record.

20          HEARING OFFICER JONES: And that's the  
21          Order and Notice of Hearing and the --

22          MS. PITMAN: Order and Notice of Hearing  
23          and the --

24          HEARING OFFICER JONES: And this 21-page  
25          packet included with it?

1 MS. PITMAN: Yes.

2 HEARING OFFICER JONES: Okay, that will be  
3 so admitted as the Board's Exhibit No. 1  
4 anything further?

5 (WHEREUPON, the Board's Exhibit No. 1 was  
6 received in evidence.)

7 MS. PITMAN: I would just ask the board  
8 take judicial notice of the rules and the  
9 statutes regarding cosmetology.

10 HEARING OFFICER JONES: Very well, those  
11 are so noted.

12 Mr. Nguyen, do you have anything in your  
13 possession today that you want the board to  
14 consider before they make their decision or  
15 while they are making their decision?

16 MR. NGUYEN: What you mean, I wasn't  
17 there, I -- I don't -- I don't work the one  
18 period of time.

19 HEARING OFFICER JONES: Do you have any  
20 papers with you today that you want the board  
21 to look at?

22 MR. NGUYEN: What you mean paper?

23 HEARING OFFICER JONES: Well, anything  
24 with you that you want considered today? Do  
25 you have any papers, letters, notes of any kind

1           that you want the board to look at?

2           MR. NGUYEN:   These I got from the board is  
3           it.

4           HEARING OFFICER JONES:   Okay.   Very well,  
5           they have those.   Okay.   Opening statements,  
6           Ms. Pitman?

7           MS. PITMAN:   No, I have no opening  
8           statement.

9           HEARING OFFICER JONES:   Mr. Nguyen, is  
10          there anything you want to tell the board in an  
11          opening, I'm going to give you plenty of  
12          opportunity to tell your side of the story and  
13          explain the situation, so if you want to do  
14          that now or if you want to wait until after the  
15          board calls their witnesses.

16          MR. NGUYEN:   Oh, I can do now.

17          HEARING OFFICER JONES:   Okay.   And -- and  
18          I will tell you, I'm going to let you make your  
19          opening now, but later I will let the -- the  
20          board, and as well as Ms. Pitman, have an  
21          opportunity to ask you questions.

22          MR. NGUYEN:   Sure.   Uh-huh.

23          HEARING OFFICER JONES:   Okay.   Go right  
24          ahead.

25          MR. NGUYEN:   The reason that my -- my

1 license expire, because I -- I send my payment  
2 in, you know, I send my payment in, but because  
3 I didn't pay my -- my penalize the -- the  
4 previous one, that's why they -- they didn't  
5 renew my license. And the -- and also matter  
6 of fact, I did -- I didn't work during --  
7 during that time. I wasn't there that time on  
8 that day he -- he -- he inspect my salon. And  
9 also the person work for me over there, I -- I  
10 wasn't there, I asked him, is that -- you work  
11 that day and he said, yes, he provide an ID and  
12 somehow I don't know he -- he say that's not  
13 him, because I wasn't there, I -- I didn't know  
14 what's going on. That -- that's all I have.

15 HEARING OFFICER JONES: Okay. Thank you  
16 very much, Mr. Nguyen.

17 Ms. Pitman, call your first.

18 MS. PITMAN: Call Chris Nicklaus.

19 WHEREUPON,

20 CHRIS NICKLAUS,  
21 having been called for examination, and having been first  
22 duly sworn by the Hearing Officer, was examined and  
23 testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. PITMAN:

1 Q Mr. Nicklaus, please state your full name.

2 A Chris Nicklaus.

3 Q And tell us where you work and what you do there.

4 A The Arkansas Department of Health, I'm a cosmetology  
5 inspector for the cosmetology department.

6 Q Okay. Mr. Nicklaus, did you inspect Best Nails?

7 A Yes.

8 Q What day?

9 A 5/8/14.

10 Q Okay. On May 8, when you inspected Best Nails, what  
11 did you find?

12 A Several things. Everything that's documented in the  
13 inspection sheet. And like he was, Justin was saying,  
14 Justin was not working that day and I forgot to mark that  
15 on the inspection sheet, and they also had an unlicensed  
16 person working.

17 Q Okay. You said everything that's marked on the  
18 inspection sheet, is that Page 6 in the packet?

19 A Yes.

20 Q Okay. Turning to Page 6, if you will just start on  
21 the first thing you checked, looks like photo ID  
22 presented, and tell us why you checked that?

23 A I asked the young man that was working, they did not  
24 have a practitioner license present, if he had a photo ID  
25 and he did not.

1 Q Okay. That young man, who is he on this list of  
2 people on this inspection sheet?

3 A He's not on this list. He is on Page 8.

4 Q Page 8?

5 A Yes.

6 Q Okay. And what's on Page 8?

7 A Page 8, I was waiting, Brandon, the manager, had  
8 called someone to bring his practitioner license up, and  
9 while I was waiting I just went ahead and asked the young  
10 man for his photo ID and that's when he told me he didn't  
11 have it, and I asked him if he would please write his  
12 name down and his birth date, and he started writing his  
13 name down and Brandon intervened and he Xed out what he  
14 was writing and wrote the name that's present on there  
15 with the birth date.

16 Q Okay. So this is not your handwriting on Page 8?

17 A No.

18 Q Okay. Did he present a photo ID at all?

19 A They did bring a photo ID in before I left, and I  
20 took a picture of it. It's on page -- it's the very last  
21 page.

22 Q Page 21. Okay. The picture that's in this photo  
23 ID, is that the man who you saw that day?

24 A No.

25 Q Okay. Is that everything that is about No. 4, photo



1 ID presented?

2 A Yes.

3 Q And then it looks like you also checked allowing a  
4 person to work without current Arkansas license, No. 6,  
5 is that -- does that relate back to this Ky --

6 A Yes.

7 Q -- person who presented the ID of Ky, I can't  
8 remember the last name right now?

9 A Yeah. Yes.

10 Q Okay. Is that regarding him?

11 A Yes.

12 Q Okay. Is he also the unlicensed person that was in  
13 the salon?

14 A Yes.

15 Q What about the health and safety concerns? Tell us  
16 about those.

17 A The health and safety concerns, let me look back at  
18 the pictures to go along with it. The picture on  
19 Page 12, is that Page 12? I can't see the number, yeah,  
20 it's Page 12, is equipment and furnishings, fixtures  
21 clean and repaired.

22 Q Okay. And what is this a picture of?

23 A It's a picture of a pedicure chair.

24 Q Okay. And can you just describe what we're seeing  
25 here?

1 A The arms of the chair were worn and frayed, the  
2 material was showing, there was no way you could properly  
3 disinfect it without the covering over it.

4 Q Okay. And the next picture?

5 A Those are their dirty and clean nailbrushes, and  
6 that goes under solutions covered at all times, under 22.

7 Q Okay. And can they mix dirty and clean brushes  
8 together like that?

9 A I'm sorry?

10 Q Can they mix dirty and clean brushes together like  
11 that?

12 A We require them to have them covered and labeled and  
13 they were neither, so -- and there may be -- and that was  
14 the only thing I wrote on four was not having the  
15 solution covered.

16 Q Okay. Page 14?

17 A Page 14 is a used nail file and buffers in a drawer  
18 with cotton.

19 Q Okay. And what is that a violation of?

20 A All supplies and instruments that cannot be  
21 disinfected or disposed of, 21a.

22 Q Okay. Can you disinfect these nail buffers and --

23 A No.

24 Q Okay. Page 15?

25 A Page 15, they had various plastic bags at each

1 manicure table they were using for trashcans, and that  
2 falls under 13a.

3 Q Which is?

4 A Sufficient number of covered waste receptacles.

5 Q It appears there is a trashcan in this top left  
6 corner?

7 A Yes.

8 Q Is it covered properly?

9 A No. It was full.

10 Q Okay.

11 A Over full.

12 Q And Page 16?

13 A It's the same thing, plastic bags for trashcans.

14 Q Okay. Page 17?

15 A Page 17 is a manicure table, it's a drawer with  
16 clean and dirty implements in it, there is dirty files  
17 and buffers.

18 Q Okay. And what is that a violation of?

19 A That goes under 22, separation of disinfected  
20 contaminated implements.

21 Q Page 18?

22 A Page 18, if I recall properly, I believe that was a  
23 pedicure station that had dirty and clean, they had dirty  
24 nail files and buffers in with the -- I have to look at  
25 the colored picture -- yes, they had clean and dirty

1 buffers in the drawer with toe separators and it looks  
2 like a towel.

3 Q Page 19?

4 A Page 19 was another pedicure chair that was worn and  
5 frayed.

6 Q And Page 20?

7 A And Page 20, I asked Brandon if that was a public  
8 restroom and he said it was, and there is a huge hole in  
9 the wall. Yeah.

10 Q And is that a violation of our rules?

11 A That falls under 8, No. 8, walls, woodwork, etc.,  
12 material, clean and in good repair.

13 Q Okay. And then Page 21 is the picture of the  
14 license?

15 A Yes.

16 Q Going back to the man who presented this license to  
17 you, on Page 7, what happened after he went to get his  
18 ID? You have a note at the bottom of that page. Will  
19 you tell us what that note means?

20 A While I was waiting for the gentleman that brought  
21 the ID to the salon, the young man that was doing the  
22 pedicure left the salon.

23 Q And the young man who was doing the pedicure, is  
24 that the man who gave you this -- or who was supposed to  
25 be the man in this ID on Page 21?

1 A Correct.

2 Q Okay. And who brought that ID to you?

3 A I have no idea who it was.

4 Q All right. Who was there that day?

5 A Brandon, he says he was the manager, Brandon --

6 Brandon Nguyen.

7 Q Okay.

8 A Nguyen.

9 Q Brandon Nguyen said he was the manager?

10 A Yes.

11 Q And it says he refused to sign, what do you mean by

12 that?

13 A He refused to sign any of it because he said that --

14 he was arguing the fact that the person in the photo ID

15 was the person that was working -- doing the pedicuring,

16 and so he refused to sign it.

17 Q Okay. Did he have anything to say about any of the

18 other health and safety violations?

19 A No.

20 Q Mr. Nicklaus, after you did your inspection, what

21 did you do?

22 A I believe I went out to the vehicle and called the

23 office back about the licensing.

24 Q Okay. And what did they tell you?

25 A Christina looked up the name on Page 8 that he had

1 wrote, the young man that was doing the pedicure, and we  
2 couldn't -- she couldn't find him in the system under the  
3 name that was wrote -- written.

4 Q Okay. And that's Huynh, it looks like H-U --

5 A N-g-n-h?

6 Q Okay.

7 A J, sorry j-n-h.

8 Q Okay. And did you also look at the name on this ID?

9 A Yes.

10 Q And did that name, it looks like Ky Nguyen, does  
11 that name show up in the system?

12 A I don't believe we looked -- she did look this up  
13 and she couldn't find it at the time. I don't know -- I  
14 don't know, I -- yeah, she did look this up and she  
15 couldn't find it as well.

16 Q Okay. Have you been back to Best Nails since May 8?

17 A No.

18 Q On May 8, did you leave a copy of the inspection  
19 sheet with --

20 A Yes.

21 Q -- Best Nails?

22 Okay. And that's the inspection sheet that's on  
23 Page 6?

24 A Yes.

25 Q Mr. Nicklaus, is there anything else about your

1 inspection that you would like us to know?

2 A No.

3 MS. PITMAN: I don't have any other  
4 questions at this time.

5 HEARING OFFICER JONES: Very well.  
6 Mr. Nicklaus, please be sure when you answer  
7 that you give verbal answers and that --

8 THE WITNESS: Sorry.

9 HEARING OFFICER JONES: -- that Ms. Susan  
10 can hear you.

11 THE WITNESS: Yes.

12 HEARING OFFICER JONES: Mr. Nguyen, do you  
13 have any questions you would like to ask  
14 Mr. Nicklaus?

15 MR. NGUYEN: No. Everything he tell me is  
16 true, but I wasn't there and Brandon were  
17 manager for me and during this period of time,  
18 so he -- he say that person, he -- he hide from  
19 me.

20 HEARING OFFICER JONES: Okay. Mr. Nguyen,  
21 I'm going to give you a chance to talk some  
22 more, but right now it's if you have any  
23 questions for Mr. Nicklaus?

24 MR. NGUYEN: No.

25 HEARING OFFICER JONES: Okay. Board

1                   members, questions for Mr. Nicklaus?

2                   If there are none, thank you very much,  
3                   Mr. Nicklaus.

4                   Ms. Pitman, call your next.

5                   MS. PITMAN: Call Kelli Kersey.

6                   HEARING OFFICER JONES: Go right ahead.

7                   WHEREUPON,

8                                   KELLI KERSEY,

9                   having been called for examination, and having been first  
10                  duly sworn by the Hearing Officer, was examined and  
11                  testified, as follows:

12                                   DIRECT EXAMINATION

13                  BY MS. PITMAN:

14                  Q       Ms. Kersey, tell us your full name and where you  
15                  work.

16                  A       Kelli Kersey, Arkansas Department of Health,  
17                  Cosmetology Section Chief.

18                  Q       Okay. And, Ms. Kersey, when Mr. Nicklaus did his  
19                  inspection on May 8, did he report that back to your  
20                  office?

21                  A       Yes, ma'am.

22                  Q       Okay. What did you do after that?

23                  A       We always look over the inspection sheet and enter  
24                  it into the system and check for any license thing.

25                  Q       Okay. And when you check the licensing on this Ky



1    Nguyen, did you find anything?

2    A     No.

3    Q     Okay. Did you check the license on Best Nails?

4    A     Yes.

5    Q     Did they have any previous violations?

6    A     Yes, ma'am.

7    Q     Can you tell us about those?

8    A     It's -- they are not listed in here, sorry, but --

9    Q     Okay. It's not on there?

10   A     No. Sorry.

11   Q     No, that's okay. But did he have a current license

12   for Best Nails at the time you looked for it?

13   A     Yes.

14   Q     Okay. Ms. Kersey, did you send out a Notice of

15   Hearing for today?

16   A     Yes.

17   Q     That's on Page 1, it looks like?

18   A     Yes.

19   Q     Did it list out all of the violations that

20   Mr. Nicklaus discussed today?

21   A     Yes, ma'am.

22   Q     Okay. And did it tell Mr. Nguyen the date and time

23   of today's hearing?

24   A     Yes.

25   Q     And it listed it as July 21<sup>st</sup> at 9:00 a.m., in Room

1 801 in the Freeway Medical Building?

2 A Yes.

3 Q And how was that sent to Mr. Nguyen?

4 A Certified mail.

5 Q Who signed for it, or was it signed for?

6 A It was signed for, yes.

7 Q Okay. And what day?

8 A July 2.

9 Q Ms. Kersey, what are you recommending as a penalty  
10 today?

11 A Our recommendation is \$600.

12 Q Where is that detailed?

13 A On Page 9 and 10.

14 Q Okay. Tell us why you are recommending that?

15 A Allowing a person to work without an Arkansas  
16 license is \$250; allowing a person to work with an --  
17 without a current Arkansas license; health and safety  
18 rules weren't posted; equipments and furnishings were  
19 damaged, \$50; sufficient number of waste receptacles  
20 covered was \$50; disinfected or disposed of immediately  
21 \$50; and separation of disinfected contaminated  
22 implements, \$50.

23 Q And that totalled \$600?

24 A Yes, ma'am.

25 Q Okay. Is there anything else you would like us to

1 know then?

2 A No.

3 MS. PITMAN: No other questions.

4 HEARING OFFICER JONES: Mr. Nguyen, any  
5 questions for Ms. Kersey?

6 MR. NGUYEN: I -- I didn't work that day.

7 THE WITNESS: Okay.

8 HEARING OFFICER JONES: But do you have  
9 questions for Ms. Kersey?

10 MR. NGUYEN: No. I don't have a question.

11 HEARING OFFICER JONES: Okay.

12 MR. NGUYEN: I don't know what to ask.

13 HEARING OFFICER JONES: Okay. Board  
14 members, questions for Ms. Kersey?

15 MS. STEELE: I do.

16 HEARING OFFICER JONES: Okay. Go right  
17 ahead.

18 MS. STEELE: Okay. You said there were  
19 previous violations? Do you recall any of  
20 them?

21 THE WITNESS: Allowing people to work  
22 without a license.

23 MS. STEELE: Without a license? Okay.

24 MS. ANDERSON: And my question is, did  
25 Mr. Nguyen have a license previously that was

1 not renewed prior to this as well?

2 THE WITNESS: Yes.

3 MS. ANDERSON: And working without a  
4 license prior to this?

5 THE WITNESS: Yes.

6 MS. ANDERSON: Okay.

7 HEARING OFFICER JONES: Further questions  
8 from the board?

9 If there are none, thank you, Ms. Kersey.

10 Ms. Pitman, anything further?

11 MS. PITMAN: No.

12 HEARING OFFICER JONES: Okay. Mr. Nguyen,  
13 I'm going to give you another chance to -- if  
14 there is anything else you want to say to the  
15 board, and then I'm going to let Ms. Pitman and  
16 the board both have an opportunity to ask you  
17 any questions they have.

18 MR. NGUYEN: No, I don't.

19 HEARING OFFICER JONES: Okay. Ms. Pitman,  
20 do you have any questions for Mr. Nguyen?

21 WHEREUPON,

22 JUSTIN NGUYEN,  
23 having been called for examination, and having been first  
24 duly sworn by the Hearing Officer, was examined and  
25 testified, as follows:

## 1 DIRECT EXAMINATION

2 BY MS. PITMAN:

3 Q Mr. Nguyen, do you own Best Nails Salon?

4 A Yes, ma'am.

5 Q Okay. And you stated earlier, I think, that you  
6 knew -- that everything that Mr. Nicklaus said was true  
7 about the salon and these pictures, the attached  
8 pictures?

9 A Yes, uh-huh.

10 Q Is this what your salon looks like?

11 A Yes, uh-huh.

12 MS. PITMAN: Okay. I think that's all I  
13 have.14 HEARING OFFICER JONES: Okay. Board  
15 members, questions for Mr. Nguyen?

16 Go right ahead.

17 MS. STEELE: Have you corrected any of  
18 these photos? Have you fixed any of the chairs  
19 or fixed the holes in the walls or gotten the  
20 trashcans covered?21 THE WITNESS: Yeah, I -- I working on  
22 that.

23 MS. STEELE: You're working on it?

24 THE WITNESS: Uh-huh.

25 MS. STEELE: So do you have new chairs

1                   yet?

2                   THE WITNESS:   Not yet.

3                   MS. STEELE:    Do you have any trashcans?

4                   THE WITNESS:   We got plenty of trashcans,  
5                   I don't know.

6                   MS. STEELE:    With covers?

7                   THE WITNESS:   Yeah.   I don't know what's  
8                   going on.   I wasn't there, I don't know which  
9                   trashcan was not covered.

10                  MS. STEELE:    And the hole in the wall, you  
11                  fixed the hole in the wall?

12                  THE WITNESS:   No, my plumber did it so  
13                  he -- he the one fixed it.

14                  MS. STEELE:    Okay.   He fixed it?

15                  THE WITNESS:   Uh-huh.

16                  MS. STEELE:    Okay.

17                  HEARING OFFICER JONES:   Further questions  
18                  from board members?

19                  MS. ANDERSON:   Mr. Nguyen, you said you  
20                  were not working.   Do you work in your salon,  
21                  you just weren't working that day?

22                  THE WITNESS:    Yes.

23                  MS. ANDERSON:   Okay.   Thank you.

24                  THE WITNESS:    That's why my question, I  
25                  didn't work that day so --

1 MS. ANDERSON: But you're still required  
2 to have a license, a current license.

3 THE WITNESS: But I -- I do.

4 MS. ANDERSON: Correct?

5 THE WITNESS: Because the -- the board  
6 didn't send my license over to me on the time I  
7 renew but they hold it because I didn't pay  
8 hundred some dollar for the penalize.

9 MS. ANDERSON: Prior?

10 THE WITNESS: Yeah. That's not my fault.

11 HEARING OFFICER JONES: Go right ahead.

12 MS. FORD: Do you -- do you understand the  
13 laws as far as licensing and why your license  
14 was not mailed out to you? If you owe a fine,  
15 do you understand?

16 THE WITNESS: No, I didn't -- I didn't  
17 know that point.

18 MS. FORD: Okay. Are you licensed in the  
19 state of Arkansas?

20 THE WITNESS: Yes, uh-huh.

21 MS. FORD: Okay. Then the law states that  
22 you have to know what the laws mean, if -- and  
23 it's your responsibility to, sir.

24 THE WITNESS: I -- I know, but I didn't  
25 work that day.

1 MS. FORD: Yes.

2 THE WITNESS: For if I got a license but I  
3 did not work.

4 MS. FORD: Right.

5 THE WITNESS: If you got, for example, if  
6 you got driver's license -- if you got a  
7 driver's license but you don't drive, people  
8 fine you for that? No. See.

9 MS. FORD: Okay. Also, with this being  
10 your salon, do you accept responsibility --

11 THE WITNESS: Yes.

12 MS. FORD: -- for the way the salon looks?

13 THE WITNESS: Yes.

14 MS. FORD: Even if you're there or not, do  
15 you accept responsibility?

16 THE WITNESS: Yes, I do. I -- I did.

17 HEARING OFFICER JONES: Further questions  
18 from board members?

19 Seeing none, okay, Ms. Pitman, anything in  
20 a closing, or Mr. Nguyen, do you have any  
21 witnesses you want to call?

22 MR. NGUYEN: No.

23 HEARING OFFICER JONES: Okay. And I'm  
24 going to give you -- we're going to do closing  
25 statements, I'm going to let Ms. Pitman go



1 first and then you'll get one more chance if  
2 there is anything else you want to say or  
3 communicate to the board.

4 MR. NGUYEN: Okay.

5 HEARING OFFICER JONES: Okay? Go ahead,  
6 Ms. Pitman.

7 MS. PITMAN: First a clarifying matter,  
8 Mr. Nguyen is not currently license, that's  
9 correct, he last licensed expired on March 5,  
10 however, he was not working that day, he did  
11 not -- he was not working the day that the  
12 inspection was conducted so he did not allow a  
13 person to work without a license that day and  
14 he renewed his on 5/15/2014, so just to  
15 clarify, that was supposed to be taken out and  
16 that was not.

17 So other than that, Mr. Nguyen is the  
18 owner of Best Nails Salon and is responsible  
19 for all the health and safety issues that are  
20 in that salon, the appearance of that salon,  
21 and there were several violations that were --  
22 that were found that day as well as he is  
23 responsible for who he hires and whether they  
24 have a license. So that's my closing.

25 HEARING OFFICER JONES: Okay. Mr. Nguyen,

1           go right ahead, you can tell the board anything  
2           else you want them to know before we go off the  
3           record for their deliberations and they make a  
4           decision.

5           MR. NGUYEN:   No.

6           HEARING OFFICER JONES:   Nothing further?

7           MR. NGUYEN:   Nothing further.

8           HEARING OFFICER JONES:   Okay.   Very well,  
9           at this time we'll close the record and the  
10          board will recess for deliberations.   Once a  
11          decision has been reached we will go back on  
12          the record.   But just one thing to remember,  
13          board, you do need to come up with findings of  
14          fact and conclusions of law to support your  
15          decision.

16          Okay.   We'll go off the record, thanks.

17          (WHEREUPON, the Committee retired to  
18          deliberate, off the record, from 9:36 a.m. to  
19          9:40 a.m. and returned with the following  
20          decision:)

21          HEARING OFFICER JONES:   Very well.   At  
22          this time we'll go back on the record for the  
23          board's decision.

24          Is there a motion?

25          MS. FORD:   I would like to make a motion

1           that we go with the recommendation from the  
2           section of \$500 for fines; and that a 30-day  
3           reinspection occur, a mandatory 30-day  
4           reinspection of this facility occur from  
5           today's date.

6           MS. SULLIVAN:   And I second that.

7           MS. ANDERSON:   Okay.   We have a motion and  
8           a second on the floor.   I'll call for a vote.  
9           Cynthia?

10          MS. STEELE:   Aye.

11          MS. PECK:   Aye.

12          MS. JACKSON:   Aye.

13          MS. FORD:   Aye.

14          MS. SULLIVAN:   Aye.

15          MS. ANDERSON:   And aye.   Motion passes  
16          we're all in favor of the finding and the  
17          reinspection.

18          HEARING OFFICER JONES:   Let the record  
19          reflect this decision of the board was  
20          unanimous.   Please reduce the board's decision  
21          to writing and make or attempt service upon all  
22          the parties.   If the respondent cares to appeal  
23          the decision, an appeal can be taken under  
24          Arkansas Code Annotated 25-15-201, et seq., or  
25          any specific provisions of this board.

1                   If there are no other questions or  
2                   comments this hearing is concluded.

3                   Thank you, Mr. Nguyen. We're -- we're  
4                   done.

5                   MR. NGUYEN: Okay. Thank you.

6                   HEARING OFFICER JONES: Okay. Thank you.  
7                   And I believe I know in the past that you talk  
8                   to Teri about a payment plan?

9                   MS. KERSEY: Yes.

10                  HEARING OFFICER JONES: If you want to  
11                  talk about a payment plan or getting your fine  
12                  paid, you can see Teri, if you would, she can  
13                  talk to you about any payments options.

14                  MR. NGUYEN: Okay.

15                  Teri, will you raise your hand?

16                  MS. PREACHERS: Yes, he knows who I am.

17                  (WHEREUPON, at 9:42 a.m., the  
18                  above-entitled proceedings were concluded.)

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1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER

4 v.

5 CREATIVE SCHOOL OF COSMETOLOGY - JONESBORO RESPONDENT

6 IN THE MATTER OF:

7 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER

8 v.

9 CREATIVE SCHOOL OF COSMETOLOGY, INC. RESPONDENT

10 HEARING OFFICER JONES: Next up we're

11 going to do Creative School of Cosmetology. Is

12 there anyone here from Creative School of

13 Cosmetology?

14 MS. KERSEY: He -- can I --

15 HEARING OFFICER JONES: Yeah. Go right

16 ahead.

17 MS. KERSEY: He called this morning and

18 could not make it, but he said proceed without

19 him. He had another court appearance that he

20 just found out about.

21 MR. HOGAN: He did?

22 MS. KERSEY: Just saying -- just saying

23 what I heard.

24 HEARING OFFICER JONES: Okay. Ms. Pitman,

25 do y'all want to proceed without the defendant

1 present, knowing that he called this morning  
2 and made contact saying he couldn't be here  
3 or -- go -- go right ahead, I'm --

4 MS. KERSEY: Okay.

5 HEARING OFFICER JONES: -- I'm just trying  
6 to figure out what y'all want to do at this  
7 point.

8 MS. KERSEY: Well, he also tried -- he  
9 called Friday and wanted to pay to renew his  
10 license. But this is like four years in a row  
11 that his license has been late, so that's why  
12 we brought him before you guys. So that's why  
13 we just didn't just let him pay, so -- I'm  
14 just -- so --

15 HEARING OFFICER JONES: I'm just here to  
16 run the hearings, so it's up to y'all what to  
17 do, if you want to go ahead with the hearings,  
18 knowing he can't be here, if you want to  
19 postpone them, what. I -- I'm just trying to  
20 get to where -- what y'all want to do as the  
21 board.

22 MR. HOGAN: Did he ask you to go ahead  
23 this morning?

24 MS. KERSEY: He said -- yes, he said we  
25 could go ahead.

1 MS. PITMAN: He said that we could go  
2 ahead and you called him and he had received  
3 service, correct, Ms. Kersey? Had he received  
4 the notice?

5 MS. KERSEY: Oh, yeah. Yeah, he received  
6 it.

7 MS. PITMAN: What day did you call to ask  
8 him if he received the notice of hearing?

9 MS. KERSEY: Thursday. Thursday. What  
10 day did we meet? Whatever day that was.

11 MS. PITMAN: It was last week.

12 MS. KERSEY: Yeah, it was last week.  
13 Yeah.

14 MS. PITMAN: Did he tell you then anything  
15 else?

16 MS. KERSEY: No, he said he was going to  
17 be here.

18 MS. PITMAN: If he knew about the hearing  
19 date and he said to proceed without him and he  
20 has the right to appeal if he's unhappy with  
21 the decision, so we're asking for the board  
22 whether or not you want to go ahead?

23 MS. ANDERSON: There is two -- there is  
24 two actual fines -- payments he --

25 MS. KERSEY: Yes. He has two different

1 schools.

2 MS. ANDERSON: He has two different  
3 schools.

4 HEARING OFFICER JONES: And we would do  
5 these hearings as one, is what Ms. Pitman and I  
6 had discussed.

7 MS. ANDERSON: Exactly. And the finding  
8 for --

9 HEARING OFFICER JONES: Everybody ready?  
10 Is everybody okay with proceeding?

11 COMMITTEE MEMBERS: Yes.

12 HEARING OFFICER JONES: Okay. Very well,  
13 then, we'll proceed with the hearing on  
14 Creative School of Cosmetology. We do have two  
15 hearings on Creative School of Cosmetology,  
16 we're going to do those as one. The first one  
17 is Creative School of Cosmetology -- Jonesboro  
18 and the second one is Creative School of  
19 Cosmetology, Inc. and they are both in your  
20 packet.

21 My name is Kendra Akin Jones and I'm the  
22 Hearing Officer today in the matter of the  
23 Arkansas Department of Health versus the  
24 Creative School of Cosmetology, Jonesboro, and  
25 the Creative School of Cosmetology, Inc., to be



1           heard before the Cosmetology Technical Advisory  
2           Committee. The respondent is not present,  
3           however the respondent contacted the board and  
4           said that he could not be here but to proceed  
5           with the hearings, and so we -- we are going to  
6           do so.

7           The board's counsel, please, identify  
8           yourself for the record.

9           MS. PITMAN: Elizabeth Pitman, attorney  
10          for the department of health.

11          HEARING OFFICER JONES: Very well. For  
12          those present who may not have appeared before  
13          in an administrative hearing, the board makes  
14          its decision on the evidence presented here  
15          today. This hearing is being held under the  
16          Administrative Procedures Act, which means the  
17          strict rules of evidence do not apply, and  
18          we'll try to make this hearing as efficient as  
19          possible. All participants should be aware  
20          that these proceedings are subject to the  
21          Freedom of Information Act, and that does  
22          include the board's recess for deliberations.

23          For those of you who are going to be a  
24          witness in today's matter, please, raise your  
25          hand to be sworn -- your right hand to be sworn

1 in.

2 (WHEREUPON, the witnesses were sworn by  
3 the Hearing Officer.)

4 HEARING OFFICER JONES: Very well.  
5 Ms. Pitman, preliminary matters?

6 MS. PITMAN: I -- yes, there is a  
7 seven-page packet, on the second blue tab, and  
8 another packet is six pages, in the third blue  
9 tab that I would like --

10 HEARING OFFICER JONES: Okay. So that the  
11 second tab is the Creative School of  
12 Cosmetology Jonesboro?

13 MS. PITMAN: Yes.

14 HEARING OFFICER JONES: And that is seven  
15 pages, and then the Creative School of  
16 Cosmetology, Inc. is the packet that is six  
17 pages found in the third tab.

18 MS. PITMAN: That is correct.

19 HEARING OFFICER JONES: Okay.

20 MS. PITMAN: I ask those be introduced.

21 HEARING OFFICER JONES: Those will be  
22 introduced, the Creative School of Cosmetology  
23 Jonesboro will be Board's Exhibit 1; the  
24 Creative School of Cosmetology, Inc. will be  
25 Board's Exhibit 2.

1                   (WHEREUPON, the Board's Exhibit Nos. 1 and  
2                   2 were received in evidence.)

3                   MS. PITMAN: And then I also ask the board  
4                   to take notice of the rules and regulations  
5                   governing cosmetology and the statutes  
6                   governing cosmetology.

7                   HEARING OFFICER JONES: Okay. Those are  
8                   so noted.

9                   Anything else, Ms. Pitman?

10                  MS. PITMAN: No.

11                  HEARING OFFICER JONES: Okay. You can  
12                  make an opening statement if you want to and  
13                  explain this to the board.

14                  MS. PITMAN: I have -- the I'll just call  
15                  my first witness.

16                  HEARING OFFICER JONES: Go right ahead and  
17                  call your first witness.

18                  MS. PITMAN: Lavonne Lester. If I may?

19                  HEARING OFFICER JONES: Go right ahead.

20 WHEREUPON,

21                               LAVONNE LESTER,  
22                   having been called for examination, and having been first  
23                   duly sworn by the Hearing Officer, was examined and  
24                   testified, as follows:

25                               DIRECT EXAMINATION

1 BY MS. PITMAN:  
2 Q Lavonne, please state your full name.  
3 A Lavonne Lester.  
4 Q Ms. Lester, tell us where you work.  
5 A Cosmetology inspector for ADH, cosmetology.  
6 Q Arkansas -- Arkansas Department of Health?  
7 A Yes.  
8 Q Okay. And, Ms. Lester, did you inspect the Creative  
9 School of Cosmetology?  
10 A I did.  
11 Q Okay. In their Jonesboro location?  
12 A Yes.  
13 Q And in -- where is the other one located, the  
14 Creative School of Cosmetology, Inc.?  
15 A Blytheville.  
16 Q Blytheville?  
17 A Uh-huh.  
18 Q You inspected both of those locations?  
19 A Yes.  
20 Q What day did you inspect Creative School of  
21 Cosmetology in Jonesboro?  
22 A On 5/30/14.  
23 Q And who is the owner of Creative School of  
24 Cosmetology?  
25 A Dennis Prude.

1 Q Dennis, what? I'm sorry.

2 A Prude, I think is how his name is --

3 Q Pruitt?

4 A Prude.

5 Q Prude. I'm sorry. I can't hear today.

6 Okay. Was Mr. Prude there on May 30 when you went

7 to the school?

8 A No, he wasn't.

9 Q Who was there?

10 A Stephanie Blackburn.

11 Q And who is Ms. Blackburn?

12 A She is the instructor for that location.

13 Q And when you went to the Jonesboro Creative School

14 of Cosmetology, what did you find?

15 A Well, first off, his license had expired, his school

16 license had expired, the time clock wasn't working, the

17 plumbing wasn't maintained properly, that was on the

18 pedicure chair. There is three violations that I marked,

19 three different places I marked because of the pedicure

20 chair, it wasn't working, he had a bucket there to catch

21 any water, and in that bathroom there was no -- no light

22 working in the bathroom. Shampoo bowls had hair in them

23 and that he needed to label the bottles as to the

24 content. That was all in Jonesboro.

25 Q What do you mean he needed to label the bottles as

1 to the contents? What bottles?

2 A It would be the bottles at the manicuring and also  
3 the pedicuring.

4 Q Okay. Ms. Lester, on these health and safety  
5 violations, what do you do at the school to get them to  
6 correct these? Do you --

7 A What do I do to get them to correct them?

8 Q Well, not you personally, the cosmetology section,  
9 what is the procedure when they have health and safety  
10 violations, do you just issue them a violation?

11 A Well, yes, and -- and we talk about it and tell them  
12 they need to --

13 Q Is there a 30-day plan of correction?

14 A As far as I know, yes.

15 Q Okay. Did you put that in place?

16 A I haven't been back to the school.

17 Q Okay. So was that you that put the 30-day plan of  
18 correction in place or Ms. Kersey and her staff?

19 A No, it would be the office.

20 Q Okay. Thank you.

21 You noted these violations, it looks like, on Page 5  
22 is where you took your notes?

23 A Yes.

24 Q Okay. And did you leave this inspection sheet with  
25 Ms. Blackburn that day?

1 A I did.

2 Q All right. After you did your inspection, did you  
3 do anything else after May 30<sup>th</sup> to follow up on it?

4 A No.

5 Q And did you call the office that day to check on the  
6 license at all or did Ms. Kersey do that?

7 A I don't believe that I did.

8 Q Okay. Going on to the next one, on the one in  
9 Blytheville, what day did you go out and inspect that?

10 A That was on 6/17/14.

11 Q Okay. And on June 17<sup>th</sup>, when you went out there,  
12 what did you find?

13 A That the school license had expired.

14 Q Were there any other violations noted that day?

15 A No.

16 Q And was Mr. Prude at Blytheville that day?

17 A No.

18 Q Who was there?

19 A Lucy Green.

20 Q Okay. And who signed for that?

21 A I believe it was -- oh, Barbara Alexander. He also  
22 has a girl that is at the desk.

23 Q Okay. Is that who --

24 A She signed it. Yeah.

25 Q Okay. And who is Lucy Green?

1 A She is the instructor at that school.

2 Q All right. On the Blytheville one, did you leave  
3 the inspection report with Ms. Alexander and Ms. Green  
4 that day?

5 A I did.

6 Q And did you do anything to follow up on that  
7 inspection?

8 A I haven't been back.

9 Q Okay. Is there anything else about your inspection,  
10 Ms. Lester, that we haven't covered?

11 A No.

12 Q And is there anything else you would like the board  
13 to know today about Creative School of Cosmetology?

14 A No.

15 MS. PITMAN: Thank you. I have no other  
16 questions.

17 HEARING OFFICER JONES: Okay. Board  
18 members, questions for Ms. Lester?

19 MS. FORD: Yes.

20 HEARING OFFICER JONES: Go right ahead.

21 MS. FORD: Ms. Lester, how many students  
22 on -- going back to the Jonesboro school on  
23 your inspection report?

24 THE WITNESS: Yes.

25 MS. FORD: You made a note about the



1                   three, there were three permits?

2                   THE WITNESS:   Yes, ma'am.

3                   MS. FORD:   How many students were present  
4                   there?

5                   THE WITNESS:   Two, I believe.

6                   MS. FORD:   Two students in Jonesboro?

7                   THE WITNESS:   (Nodding head up and down.)

8                   MS. FORD:   What about Blytheville, did  
9                   they have students there?   I noticed at the  
10                  bottom of the page you said no pictures were on  
11                  the permits, but were all the students that  
12                  were there, did they have permits?

13                  THE WITNESS:   I believe there was only one  
14                  student there that day.

15                  HEARING OFFICER JONES:   Further questions  
16                  from board members for Ms. Lester?

17                  Okay.   If there are none, thank you very  
18                  much, Ms. Lester.

19                  Ms. Pitman, you can call your next  
20                  witness.

21                  MS. PITMAN:   Call Ken Roberts.

22                  HEARING OFFICER JONES:   Mr. Roberts, if  
23                  you would, please, raise your right hand and be  
24                  sworn.

25   WHEREUPON,

1 KEN ROBERTS,  
2 having been called for examination, and having been first  
3 duly sworn by the Hearing Officer, was examined and  
4 testified, as follows:

5 HEARING OFFICER JONES: Very well, go  
6 right ahead with your questions, Ms. Pitman.

7 DIRECT EXAMINATION

8 BY MS. PITMAN:

9 Q Mr. Roberts, please, tell us your name and where you  
10 work.

11 A Kenneth Roberts, Arkansas Department of Health,  
12 cosmetology inspector supervisor.

13 Q Okay. And as the inspector supervisor did you put a  
14 30-day plan of correction in place for the school?

15 A Yes.

16 Q Okay. Tell us about that.

17 A I mail those out as soon as I get their inspection  
18 sheet in, about a week later.

19 Q Okay.

20 A And I -- and I -- and I call them findings report,  
21 actually, but that's okay, same thing, same thing.

22 Q That's fine. Call them whatever you would like.  
23 What is the findings report? Tell us what --

24 A It lists everything that -- that needs to be  
25 corrected and that we will follow up with a -- a future

1 visit.

2 Q And was that future visit conducted?

3 A We have not yet.

4 Q Have not yet conducted it?

5 A (Nodding head up and down.)

6 Q Mr. Roberts, is it the policy of the cosmetology  
7 section not to fine for health and safety violations  
8 until that 30 days is up?

9 A That's correct.

10 MS. PITMAN: I don't have any further  
11 questions.

12 HEARING OFFICER JONES: Board members,  
13 questions for Mr. Roberts?

14 Seeing none, thank you very much,  
15 Mr. Roberts.

16 Ms. Pitman?

17 MS. PITMAN: Kelli Kersey.

18 HEARING OFFICER JONES: Very well. Go  
19 right ahead.

20 WHEREUPON,

21 KELLI KERSEY,  
22 having been called for examination, and having been first  
23 duly sworn by the Hearing Officer, was examined and  
24 testified, as follows:

25 DIRECT EXAMINATION

1 BY MS. PITMAN:

2 Q Ms. Kersey, state your name and where you work?

3 A Kelli Kersey, Arkansas Department of Health,  
4 Cosmetology Section, Section Chief.

5 Q Okay. And with the Creative School of Cosmetology,  
6 did you also review the inspection sheet and the findings  
7 report?

8 A I did.

9 Q Okay. And was a Notice of Hearing prepared for both  
10 the Jonesboro and Blytheville locations?

11 A Yes, it was.

12 Q And do those notice of hearings list out the license  
13 violations discussed today?

14 A Correct.

15 Q Are those the only violations listed in the report?

16 A Correct.

17 Q Do those notices of hearing also discuss the date  
18 and time of the hearing?

19 A Yes, ma'am.

20 Q That's today, July 21, 9:00 a.m., in Room 801?

21 A Yes.

22 Q Did Mr. Prude receive those notices of hearing for  
23 that hearing?

24 A He did.

25 Q It does not appear that there is a green card in

1 here. There is a report, it looks like, from the United  
2 States Postal Service, that notes left no authorization  
3 person available, how do you know he received it?

4 A I spoke to him on the phone Thursday, I believe, and  
5 he stated he had received those.

6 Q Okay. And he also called today to tell you that he  
7 wouldn't be here today; is that correct?

8 A Correct.

9 Q So Mr. Prude was aware of today's hearing?

10 A Yes, ma'am.

11 Q Ms. Kersey, what is the violation -- or recommended  
12 violation today?

13 A \$500 per school.

14 Q And why is that?

15 A It's just -- we -- for a salon, we do 250, but we  
16 feel like the schools should be a little more responsible  
17 with their license, so it's \$500.

18 Q And is that from the statute?

19 A Yes.

20 Q Or from the rules?

21 A Yes.

22 Q Okay. Is there anything else about -- I think there  
23 is another sheet, this sheet on Page 6 at the --

24 A Second one or first one?

25 Q Jonesboro?

1 HEARING OFFICER JONES: Page 6 of the --

2 MS. PITMAN: Yeah, first packet --

3 HEARING OFFICER JONES: -- the Creative  
4 School of Cosmetology Jonesboro.

5 MS. PITMAN: Yes.

6 BY MS. PITMAN:

7 Q What is this sheet?

8 A This is his -- the licensing page, and it shows when  
9 it expires and when it was renewed.

10 Q Okay. It looks -- tell us what this is saying.

11 A Okay. He renewed his license in 2010, in June, so  
12 it was late that year; in 2011, he didn't renew it until  
13 August; 2012, he didn't renew it until March; in 2013, he  
14 didn't renew it until June. And he has yet to renew it  
15 now this year, 2014, and it's July.

16 Q So that's how many years that he's been late?

17 A One, two, three, four.

18 Q And is that why he wasn't allowed to renew at this  
19 time?

20 A Correct.

21 Q On the other one, Creative School of Cosmetology,  
22 Inc.?

23 COURT REPORTER: I'm having a hard time  
24 hearing you.

25 MS. PITMAN: I'm sorry.

1 BY MS. PITMAN:

2 Q On Page 3 of the Creative School of Cosmetology,  
3 Inc. packet -- not Page 3, sorry, Page 6 again, you have  
4 a similar sheet. Please describe this for us.

5 A Okay. That one, the second one, that says 1/1/1938,  
6 it is not a misprint, that's when the school actually  
7 opened, and so he did a change of owner when he bought  
8 the school, so that's not a misprint, it's on all of  
9 the -- all of our licensing, when they actually first got  
10 their license. So in two -- it expired 12/31/2009, he  
11 did not renew until June 2010 for his 2010 license; and  
12 then he actually in 2011, did it early that year; 2012,  
13 he actually was late again; and then 2013, he was on  
14 time, but he has not renewed this year for 2014 yet.

15 MS. PITMAN: Okay. I have no other  
16 questions.

17 HEARING OFFICER JONES: Board members,  
18 questions for Ms. Kersey?

19 MS. ANDERSON: I do have a question. So  
20 on the school in Blytheville, that is, in 2009  
21 he renewed it six months late, but he bought it  
22 in 2009?

23 MS. KERSEY: 2009 he -- the issue date,  
24 that very first one --

25 MS. ANDERSON: Yes.

1 MS. KERSEY: -- you wouldn't see the one,  
2 because it was a change of owner.

3 MS. ANDERSON: Okay. So he -- he had to  
4 renew then?

5 MS. KERSEY: I don't know the exact date  
6 of when he bought it, so it would have expired  
7 12/31/2009, that year. He bought it in 2009.  
8 Do you see what I'm saying? The issue date is  
9 not on there because that's the original  
10 license issued.

11 MS. ANDERSON: So he would have had --  
12 that one would have been current when he bought  
13 it?

14 THE WITNESS: Yes.

15 MS. ANDERSON: Okay. So that one is  
16 current?

17 THE WITNESS: Yes.

18 MS. ANDERSON: Okay.

19 MS. FORD: I have one question. In  
20 accordance with the law and the regulation, an  
21 unlicensed school that has students and a  
22 broken time clock, how do you accrue hours for  
23 the students and how is this going to affect  
24 them?

25 THE WITNESS: We generally don't hold the



1 students accountable for that because they are  
2 going to school, you know. I mean you can't  
3 really punish the student because the owner  
4 didn't renew their license. I mean, I guess we  
5 could if y'all wanted us to, but we don't  
6 really feel like that's their fault that the  
7 owner won't --

8 MS. FORD: But they are operating an  
9 unlicensed facility.

10 THE WITNESS: Right.

11 MS. FORD: Which, if you look at the  
12 regulations, they are not able to accrue hours  
13 for those students that are there, if they are  
14 not a licensed facility.

15 THE WITNESS: So you want us to punish the  
16 students?

17 MS. FORD: No, but something, I would say  
18 what -- what can be done? I understand what  
19 you're saying, but the law -- you know, the law  
20 states that it has to be a licensed facility in  
21 order for it to be the -- a school. How does  
22 that -- I mean I understand it affects the  
23 students greatly.

24 THE WITNESS: I mean, I -- I don't know  
25 what you're asking me.

1 MS. FORD: I mean, in accordance with the  
2 law, how does it affect the students, that they  
3 are going to school, they are attending school  
4 in an unlicensed facility?

5 THE WITNESS: I mean, I guess -- I guess  
6 that would be up to y'all, if you wanted us to  
7 punish the students, but I don't feel like it's  
8 their fault.

9 HEARING OFFICER JONES: Further questions  
10 from board members?

11 MS. ANDERSON: Their -- I do have a  
12 question. There is not a standing law that  
13 states they have to have a working time clock;  
14 is that correct, in our law? Does -- in a  
15 school, is that stated, working time clock?

16 THE WITNESS: Yes.

17 MS. ANDERSON: It is stated? So he has  
18 violated that part as well?

19 THE WITNESS: Right. But that's --

20 MS. ANDERSON: By not having a working  
21 time clock.

22 THE WITNESS: But that's health and  
23 safety, so it's a 30-day plan of correction.

24 MS. ANDERSON: Okay. So it goes into a  
25 30-day plan of correction?

1 THE WITNESS: Correct.

2 MS. ANDERSON: Okay.

3 THE WITNESS: I can't see with them or  
4 without them. Sorry, guys.

5 MS. PITMAN: On Page 25, responsibility of  
6 school rule, daily records and inspection,  
7 under 1B --

8 HEARING OFFICER JONES: Please speak up.  
9 Susan is having a hard time.

10 MS. PITMAN: I'm sorry. B-1 on Page 25 is  
11 the rule governing responsibility of schools,  
12 daily records and inspections, every school  
13 shall keep a daily record of attendance on each  
14 student enrolled and the time clock shall be  
15 used for the purpose of recording hours.

16 MS. ANDERSON: Okay.

17 HEARING OFFICER JONES: Further questions  
18 from the board for Ms. Kersey?

19 Seeing none, thank you, Ms. Kersey.

20 Ms. Pitman, anything further?

21 MS. PITMAN: No.

22 HEARING OFFICER JONES: Anything you want  
23 to state in closing before the board  
24 deliberates?

25 MS. PITMAN: Just that the school,

1           Mr. Prude, because he owns two schools, one in  
2           Blytheville, one in Jonesboro, he has been late  
3           four times, five times in a row now on the  
4           school in Jonesboro, and there is two or three  
5           times, although not every year in -- in  
6           sequence, two or three times on the school in  
7           Blytheville, and he is an owner of the school,  
8           he's a professional, he is responsible for  
9           ensuring that the students get their hours in a  
10          licensed establishment, he needs to pay his  
11          licensing fees on time.

12                 HEARING OFFICER JONES:   Okay.   I would  
13          recommend to the board that you do two motions,  
14          one for each, since these are presented as  
15          separate hearings.   And we have done them  
16          together for efficiency purposes, however, when  
17          you go off the record to make your decision,  
18          you need to come to a conclusion on the  
19          Creative School of Cosmetology Jonesboro and  
20          the Creative School of Cosmetology, Inc. and  
21          that will need to be a findings and motion for  
22          each one of those.   At this time we'll close  
23          the record for the board's recess for  
24          deliberation.

25                 MS. ANDERSON:   I do have a question before

1 we go off the record, please.

2 HEARING OFFICER JONES: Okay.

3 MS. ANDERSON: Okay.

4 HEARING OFFICER JONES: This may be more  
5 for Ms. Pitman than me but go right ahead.

6 MS. ANDERSON: It's -- it's actually on  
7 the 30-day plan, do we have the 30-day plan,  
8 the date of that from -- both -- for both  
9 schools?

10 MS. KERSEY: That would be Ken.

11 MS. ANDERSON: Do we have the date that  
12 the 30-day plan was issued on each school?

13 HEARING OFFICER JONES: Okay. I don't  
14 normally let this happen, but since we're a  
15 little different on this anyway, it will be  
16 fine.

17 MS. ANDERSON: Sure.

18 HEARING OFFICER JONES: Mr. Roberts, if  
19 you could come back up and try to answer this  
20 question for Trish here, please. And I'll let  
21 her restate it so you can hear it and make sure  
22 the board gets all the information they need.

23 MR. ROBERTS: Okay.

24 MS. ANDERSON: Mr. Roberts, I was wanting  
25 to know when you issued a 30-day plan on

1 Jonesboro and when you issued the 30-day plan  
2 on Blytheville, school of -- of cosmetology.

3 MR. ROBERTS: Jonesboro was issued June 5,  
4 2014.

5 MS. ANDERSON: Okay.

6 MR. ROBERTS: I don't see the other one.  
7 We do not have Blytheville with us.

8 MS. KERSEY: Well, it's not health and  
9 safety.

10 HEARING OFFICER JONES: Wait. Wait.

11 MS. KERSEY: Wait, I'm sorry. She said  
12 one moment and I just didn't listen to her.

13 HEARING OFFICER JONES: Okay. So  
14 Mr. Roberts, you -- you've answered the  
15 question the best that you can.

16 Ms. Kersey, what is your comment now?

17 MS. KERSEY: It's not health and safety  
18 issue, so he probably did not do a plan of  
19 correction because it was licensing, so we just  
20 brought them straight here.

21 HEARING OFFICER JONES: So for the  
22 Creative School of Cosmetology, Inc., we did  
23 not do a 30-day plan because it was licensing  
24 and not health and safety?

25 MS. KERSEY: Correct.

1 HEARING OFFICER JONES: Okay. The board  
2 members clear?

3 MS. ANDERSON: Yes.

4 HEARING OFFICER JONES: Okay. At this  
5 time we will go off the record for the board's  
6 recess for deliberations. Once the decision is  
7 reached we will go back on the record.

8 Go right ahead.

9 (WHEREUPON, the Committee retired to  
10 deliberate, off the record, from 10:05 a.m. to  
11 10:41 a.m. and returned with the following  
12 decision:)

13 (Mr. Adrian Tabb joined the proceedings.

14 HEARING OFFICER JONES: Okay. Very well.

15 At this time, we'll go back on the record,  
16 the board has reached a decision.

17 Is there a motion?

18 MS. ANDERSON: Yes. Angela.

19 HEARING OFFICER JONES: Or motion, I  
20 guess. We have two hearings here, so -- go  
21 right ahead.

22 MS. JACKSON: Okay. I would like to make  
23 a motion in the matter against Creative School  
24 of Cosmetology in Jonesboro, that they receive  
25 a \$1,000 fine, 500 for each violation noted in

1           their -- what is this called, statement of  
2           fact; and they also will be put on probation  
3           pending renewal of next year's license; and if  
4           not renewed in a timely manner, their license  
5           will be revoked for up to one year.

6           MS. ANDERSON:   And do I have a second to  
7           that motion?

8           MS. SULLIVAN:   I second that.

9           MS. ANDERSON:   All those in favor,  
10          Cynthia?

11          MS. STEELE:    Aye.

12          MS. PECK:     Aye.

13          MS. JACKSON:   Aye.

14          MS. FORD:     Aye.

15          MS. SULLIVAN:   Aye.

16          MS. ANDERSON:   Aye.   The motion passes  
17          unanimously.

18                 And now we have another motion for, you  
19                 said Jonesboro.   Now it's Blytheville.

20                 MS. JACKSON:   Okay.   I would like to make  
21                 a motion for the matter against Creative School  
22                 of Cosmetology in Jonesboro for the --

23                 MS. ANDERSON:   Blytheville.

24                 HEARING OFFICER JONES:   You did the  
25                 Jonesboro already.



1 MS. JACKSON: Okay. I'm sorry,  
2 Blytheville, Inc., Creative School of  
3 Cosmetology, Inc., in Blytheville, that they  
4 receive a maximum of \$1,000 fine for the issues  
5 in their statement of fact; also probation  
6 pending renewal of next year's license; and if  
7 they are not renewed in a timely manner, their  
8 license can be revoked for up to one year.

9 MS. ANDERSON: Okay. And do I have a  
10 second?

11 MS. SULLIVAN: I will second.

12 MS. ANDERSON: And I need a vote.  
13 Cynthia?

14 MS. STEELE: Aye.

15 MS. PECK: Aye.

16 MS. JACKSON: Aye.

17 MS. FORD: Aye.

18 MS. SULLIVAN: Aye.

19 MS. ANDERSON: Aye. And that passes  
20 unanimously.

21 HEARING OFFICER JONES: Please let the  
22 record reflect the decision of the board  
23 against Creative School of Cosmetology  
24 Jonesboro was unanimous for a \$1,000 fine,  
25 please reduce that decision and make -- reduce

1           that decision to writing and make or attempt  
2           service upon all parties. Also note for the  
3           record that the board will -- or made a motion  
4           that was unanimous for Creative School of  
5           Cosmetology, Inc. in Blytheville for a \$1,000  
6           fine and make or attempt to serve -- reduce  
7           that decision to writing and make or attempt  
8           service upon all parties. If the respondent  
9           cares to appeal the decision, an appeal can be  
10          taken under the Arkansas Code Annotated  
11          25-15-201.

12                 Are there any other comments pertaining to  
13          this hearing?

14                 MS. FORD: Yes.

15                 HEARING OFFICER JONES: Go right ahead.

16                 MS. FORD: I would like to ask that  
17          notices be sent out to the students that have  
18          permits for those two facilities and that they  
19          be notified of the school's status, as far as  
20          licensing issues goes.

21                 MS. ANDERSON: I agree.

22                 HEARING OFFICER JONES: Okay. Is there  
23          any other comments for the record at this time?

24                 Being no other comments, the record will  
25          be closed and made complete.

1                   Thank you very much.

2                   (WHEREUPON, at 10:44 a.m., the  
3                   above-entitled proceedings were concluded.)

4                   ---o---

5                   HEARING OFFICER JONES: We're going to  
6                   take a ten minute break before we start with  
7                   our last hearing.

8                   (WHEREUPON, a break was held from  
9                   10:44 a.m. to 10:55 a.m.)

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IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH, PETITIONER

v.

TRINIA'S DIAMOND HAIR CARE RESPONDENT  
Owner, Trinia Surratt

HEARING OFFICER JONES: Okay. At this time we're going to get started with our last hearing of the day, which is Trinia's Diamond Hair Care. Is there anyone present for Trinia's Diamond Hair Care?

Trinia. Sorry. Trinia. That's according  
to Ms. Kersey.

Is there anyone present for Trinia's?

Okay. Very well. Ms. Kersey, is there --  
Ms. Pitman, has there been notice of this  
hearing?

MS. PITMAN: Yes, there has been. It was sent by certified mail and signed for by Trinia Surratt on 7/2/14.

HEARING OFFICER JONES: Okay. Very well.

At this time we'll start with the hearing.  
My name is Kendra Akin Jones and I'm the  
Hearing Officer today in the matter of the

1           Arkansas Department of Health versus Trinia's  
2           Diamond Hair Care, owner Trinia Surratt. Today  
3           is Monday, July 21, 2014, this is to be heard  
4           before the Cosmetology Technical Advisory  
5           Committee. Please note for the record the  
6           respondent is not present.

7           Board's counsel, please, identify yourself  
8           for the record.

9           MS. PITMAN: Elizabeth Pitman, department  
10          of health, attorney.

11          HEARING OFFICER JONES: Okay. And for  
12          those -- those present who may not have  
13          appeared before an administrative hearing, the  
14          board will base its decision on what is  
15          presented here today. This hearing is held  
16          under the Administrative Procedures Act, which  
17          means the strict rules of evidence do not  
18          apply. I'll try to run the hearing as  
19          efficiently as possible. If there is anything  
20          that needs to be submitted today for the board  
21          to consider, then that needs to be introduced  
22          into evidence. And participants to this  
23          hearing should be aware that the hearing and  
24          deliberations are subject to the Freedom of  
25          Information Act and open to the public.

1                   For those of you who are going to be  
2                   witnesses in today's matter, please, raise your  
3                   right hand to be sworn in.

4                   (WHEREUPON, the witnesses were sworn by  
5                   the Hearing Officer.)

6                   HEARING OFFICER JONES: Thank you very  
7                   much. Please have a seat.

8                   Ms. Pitman, preliminary matters?

9                   MS. PITMAN: Yes. There are three things  
10                  I would like to introduce as evidence: The  
11                  first is the packet in the book, under the  
12                  green tab, it is 14 pages, the first is the  
13                  Notice of Hearing.

14                  HEARING OFFICER JONES: Okay. That will  
15                  be Board's Exhibit No. 1.

16                  (WHEREUPON, the Board's Exhibit No. 1 was  
17                  received in evidence.)

18                  MS. PITMAN: The second is a packet that  
19                  starts with Page 15 and goes through Page 22 --  
20                  32. Thirty-two. Sorry. I can't read today.  
21                  The first page on that is a letter dated  
22                  July 27, 2013.

23                  HEARING OFFICER JONES: Okay. So the  
24                  packet Pages 15 through 32 will be Board's  
25                  Exhibit 2.

1 (WHEREUPON, the Board's Exhibit No. 2 was  
2 received in evidence.)

3 MS. PITMAN: And then the third is a  
4 one-page printout from the board's system  
5 showing the licensing renewal dates.

6 HEARING OFFICER JONES: Okay. And that  
7 will be introduced as Board's Exhibit 3.

8 (WHEREUPON, Board's Exhibit No. 3 was  
9 received in evidence.)

10 HEARING OFFICER JONES: You may proceed.  
11 Any other preliminary matters?

12 MS. PITMAN: Just that the board take  
13 notice of the rules and regulations for  
14 cosmetology and the statute governing  
15 cosmetology.

16 HEARING OFFICER JONES: Those are so  
17 noted. Would you like to make an opening?

18 MS. PITMAN: No, thank you.

19 HEARING OFFICER JONES: Very well, you may  
20 call your first witness.

21 MS. PITMAN: Call Roselyn Smith.

22 HEARING OFFICER JONES: Go right ahead.

23 WHEREUPON,

24 ROSELYN SMITH,

25 having been called for examination, and having been first

1 duly sworn by the Hearing Officer, was examined and  
2 testified, as follows:

3 DIRECT EXAMINATION

4 BY MS. PITMAN:

5 Q Ms. Smith, please state your full name.

6 A Roselyn Smith.

7 Q And, Ms. Smith, where do you work?

8 A Arkansas Department of Health, cosmetology  
9 inspector.

10 Q Okay. And as a cosmetology inspector, did you  
11 inspect Trinia's Diamond Hair Care?

12 A Yes.

13 Q And the owner of Trinia's Diamond Hair Care is  
14 Trinia Surratt?

15 A Yes.

16 Q Okay. What day did you inspect Trinia's Diamond  
17 Hair Care?

18 A May 9, 2014.

19 Q Okay. And what page is your inspection sheet on?

20 A Six.

21 Q Okay. I'm looking at Page 6. When you went out on  
22 May 9, what did you find?

23 A She had no license -- well, she -- she didn't have  
24 any current license --

25 Q Okay.



1 A -- posted, and her practitioner's license were not  
2 posted or current.

3 Q So both license, her salon license and Ms. Surratt's  
4 practitioner's license were not current?

5 A No, ma'am.

6 Q Okay. And they were both not posted?

7 A No, ma'am.

8 Q Okay. It looks like on this licensing sheet, you  
9 have both of those things checked, salon license current,  
10 practitioner's license current, what are these numbers  
11 written out beside there?

12 A Those are her license numbers.

13 Q Okay. And it also looks like you have salon license  
14 posted in reception area marked. What are the numbers  
15 written out beside there?

16 A Those were her license numbers.

17 Q So was the license itself posted?

18 A No. I called the office and got the numbers.

19 Q Okay. Thank you.

20 Were there any other violations noted that day?

21 A No.

22 Q Okay. Who -- was Ms. Surratt there that day?

23 A Yes.

24 Q Okay. And did she sign for this inspection sheet?

25 A Yes.

1 Q Did she have any explanation for why either her  
2 practitioner's license or her salon license were not  
3 current?

4 A She said that she mailed it in but she didn't  
5 receive anything back.

6 Q She mailed them. Did she have any proof of where  
7 she had mailed that in?

8 A No.

9 Q Ms. Smith, did you go back to Trinia's Diamond Hair  
10 Care after May 9?

11 A No.

12 Q Have you done anything else on this inspection since  
13 that day?

14 A No.

15 Q Is there anything else about your inspection of  
16 Trinia's Diamond Hair Care you would like the CTAC to  
17 consider today?

18 A This at the bottom where I got covered, I was just  
19 giving her a, like a verbal warning, saying that she  
20 needed to get trashcans covered, towels covered.

21 HEARING OFFICER JONES: And, Ms. Smith,  
22 that's on the bottom of Page 6?

23 THE WITNESS: Six. Just --

24 BY MS. PITMAN:

25 Q So you did not actually cite her for that that day?

1 A No. Just a warning.

2 MS. PITMAN: No other questions at this  
3 time.

4 HEARING OFFICER JONES: Board members,  
5 questions for Ms. Smith?

6 MS. STEELE: I'm having a hard time  
7 reading the -- her personal license. Is that  
8 expired 4/21/12 or '14? I can't quite tell  
9 what that is.

10 THE WITNESS: It was 4/21/14.

11 MS. STEELE: Okay.

12 HEARING OFFICER JONES: Further questions  
13 from board members?

14 If there are none, thank you very much,  
15 Ms. Smith.

16 Ms. Pitman, call your next.

17 MS. PITMAN: Call Ken Roberts.

18 HEARING OFFICER JONES: Go right ahead.

19 WHEREUPON,

20 KENNETH ROBERTS,

21 having been called for examination, and having been first  
22 duly sworn by the Hearing Officer, was examined and  
23 testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. PITMAN:

1 Q Mr. Roberts, state your full name and where you  
2 work.

3 A Kenneth Roberts, Arkansas Department of Health,  
4 cosmetology inspector supervisor.

5 Q Okay. Do you know if an inspection was conducted on  
6 Trinia's Diamond Hair Care prior to May 9?

7 A Yes.

8 Q What day was that?

9 A October 29, 2013.

10 Q And who conducted that inspection?

11 A Kerri Glaude.

12 Q Is she with the department still?

13 A No, she resigned.

14 Q Okay. Do you -- were you her supervisor at the time  
15 that she conducted that inspection?

16 A Yes, I was.

17 Q Okay. So you're familiar with that inspection?

18 A Yes.

19 Q Okay. Please tell us what Ms. Glaude found on  
20 October 29?

21 A She noted that the salon license was not posted in  
22 the reception area, and it looks like that she called the  
23 office to verify that she was current at that time, the  
24 salon was. I'm sorry.

25 Q Okay.

1 A Also the floors were not clean.

2 Q Was Ms. Surratt also present on that day?

3 A It appears that she was, she signed the inspection  
4 sheet.

5 Q Okay. And it looks like she also noted that the  
6 trashcans did not have lids on them that day as well?

7 A Yes. Trashcans must have lids and dirty towel  
8 hamper must have lid.

9 Q Why are they being noted for that and not cited,  
10 just so -- what's -- what's going on there, just so the  
11 CTAC knows?

12 A In general, Kerri probably had not been to this  
13 location before, and sometimes salon owners will say that  
14 they had no idea that was a rule.

15 Q Okay. And so they notice them of it and let them  
16 correct it?

17 A Yes.

18 Q Okay. And they do that because that's what you guys  
19 have advised them to do, you as their supervisor?

20 A Yes.

21 Q Okay. Thank you.

22 Do you know if Ms. Surratt was notified of these  
23 violations on October 29?

24 Well, never mind. I'll hold that question for  
25 Ms. Kersey.

1 A That might be better.

2 Q Is there anything else about that inspection you  
3 would like the CTAC to consider?

4 A No.

5 MS. PITMAN: Okay. Nothing further.

6 HEARING OFFICER JONES: Very well. Board  
7 members, questions for Mr. Roberts?

8 If there are no questions from the board,  
9 Mr. Roberts, thank you very much.

10 Ms. Pitman, call your next.

11 MS. PITMAN: Kelli Kersey.

12 WHEREUPON,

13 KELLI KERSEY,

14 having been called for examination, and having been first  
15 duly sworn by the Hearing Officer, was examined and  
16 testified, as follows:

17 DIRECT EXAMINATION

18 BY MS. PITMAN:

19 Q Ms. Kersey, state your full name and where you work?

20 A Kelli Kersey, Arkansas Department of Health,  
21 cosmetology section, section chief.

22 Q Okay. Starting with the 10/29/2013 inspection, was  
23 Ms. Surratt given a violation notice?

24 A Yes, ma'am.

25 Q Okay. And on Page 7?

1 A Yes. Page 7.

2 Q Okay. What day was that?

3 A February 21, 2014.

4 Q And how much was she asked to pay for that

5 violation?

6 A One hundred dollars.

7 Q Has Ms. Surratt paid that \$100?

8 A She has not.

9 Q Okay. Regarding the 5/9/2014, was she issued a

10 violation notice for that one?

11 A I believe that we just sent her a notice of hearing

12 because it was repeat offender.

13 Q Okay. Looking at the notice of hearing, which is on

14 Page 1, was Ms. Surratt notified of all the violations

15 for both the 2013 inspection and the 2014 inspection?

16 A Yes, ma'am.

17 Q And was she given a date and time of the hearing?

18 A Yes, ma'am.

19 Q And it was May 21, 2014, at 9:00 a.m., in the

20 Freeway Medical Building?

21 A July 21, yes.

22 Q I'm sorry. Did I say May?

23 July 21. It was sent certified mail?

24 A Yes, ma'am.

25 Q And did she sign for that?

1 A She did.

2 Q What day?

3 A 7/2/14.

4 Q Okay. Have you spoken to Ms. Surratt since she

5 signed for that notice?

6 A I have spoken to her multiple times. I spoke to her

7 Friday. She said that she would be present today.

8 Q Is she here?

9 A No, ma'am.

10 Q Okay. Did she tell you anything on the phone about

11 these violations?

12 A She didn't really address these particular

13 violations. She really only wanted to talk about her

14 previous ones that are not paid.

15 Q Okay. We'll talk about that in a minute. Regarding

16 the violations for 2014 and 2013, what is the recommended

17 penalty?

18 A \$400.

19 Q Okay. Tell us why that is.

20 A Fifty dollars on 10/29/13, \$50 for the salon license

21 wasn't posted, and that the floors were not in good

22 repair, and 5/9/14, the salon license was not current,

23 and the salon license was not posted. She actually did

24 not get one for -- for her personal license because, at

25 the time of the inspection, it was within the 30-day



1 grace period, so we don't send them out if it's in --  
2 within the 30-day grace period.

3 Q Okay. Because 5/9/2014 was within 30 days of  
4 4/21/2014?

5 A Correct.

6 Q Do you know if she has renewed her personal license?

7 A She has not.

8 Q She has not. Okay. Has she renewed her salon  
9 license?

10 A She has not.

11 Q And you mentioned she wanted to discuss her previous  
12 violations. Is that what's in Exhibit No. 2?

13 A It is.

14 Q Okay. And what are those?

15 A She actually had a hearing for these violations.  
16 She stated that she was not aware of these in any manner,  
17 she didn't know she had them, but she actually sent us  
18 back the consent agreement, made payment arrangements  
19 with, us and never made a payment.

20 Q Okay. What page is that on?

21 A Page 18. It's actually 17 and 18. Sorry. There is  
22 two of them, 17 and 18.

23 Q Okay. Okay. And at Page No. 15, appears to be a  
24 letter telling her how much she owes. How much is that?

25 A \$1,973.

1 Q Okay. And that's by that consent agreement?

2 A Uh-huh.

3 Q Is there also an Order and Notice -- yeah, on Page  
4 19, there's an Order and Notice of Hearing?

5 A Yes.

6 Q Did she actually come to the CTAC on this one?

7 A I -- my recollection, she did not show up for this  
8 one either.

9 Q Did they enter any type of order?

10 A They did.

11 Q And what page is that on?

12 A I think that's on the first. Sorry.

13 MS. JACKSON: Eighteen?

14 BY MS. PITMAN:

15 Q No.

16 A This is the -- this is Page 15, right? Isn't this  
17 her page --

18 Q Was there an order that was issued after the hearing  
19 was held on May 21, 2012?

20 MS. ANDERSON: Page 24.

21 THE WITNESS: I'm not seeing it but --

22 BY MS. PITMAN:

23 Q Okay.

24 A Sorry.

25 Q So we don't know?

1 A We don't -- I don't know, yeah.

2 HEARING OFFICER JONES: Ms. Pitman, be  
3 sure to speak up.

4 MS. PITMAN: Sorry, we don't know if an  
5 ordered was issued out of the May 21<sup>st</sup>  
6 hearing.

7 THE WITNESS: Right.

8 HEARING OFFICER JONES: Okay. Susan was  
9 giving that look again.

10 MS. PITMAN: Sorry, Susan. I do tend to  
11 mumble.

12 THE WITNESS: Yes, I'm sorry. I found it.

13 Page 11.

14 BY MS. PITMAN:

15 Q Thank you.

16 A In the first -- yes.

17 Q Page 11.

18 A Here we go. Is that it? Yes, Page 11. Page 11.

19 Q Okay. And that proposed order is for \$1,275?

20 A Correct.

21 Q Okay.

22 A And then Page 13 was --

23 Q For \$698?

24 A Uh-huh, correct.

25 Q And that's where we get that number 1973?

1 A Correct.

2 Q Is there anything else you would like the CTAC to  
3 consider today?

4 Well, actually, what is this sheet, Exhibit No. 3?

5 A This is her license renewals. The 2012 one is her  
6 license was not renewed from 2008 to 2012. There was a  
7 four year, that's what those first violations were for.  
8 She did renew in '12, she did renew in '13, but she has  
9 not renewed this year.

10 Q Okay. So that \$1,900 -- the \$1,973 violation was  
11 because she had not renewed from 2008 to 2012?

12 A Right. And the reason she was allowed to renew in  
13 2012 was because she set up payment arrangements, so when  
14 they set up payments arrangements, they are allowed to  
15 renew. Unfortunately, that doesn't make them make the  
16 payments, but their license is current so --

17 Q Okay.

18 A Does that make sense?

19 Q Yes. Is there anything else you would like the CTAC  
20 to consider?

21 A I don't think so.

22 MS. PITMAN: Okay. No other questions.

23 HEARING OFFICER JONES: Board members,  
24 questions for Ms. Kersey?

25 MS. ANDERSON: I do have a question.

1           Because this is a civil penalty and it's issued  
2           by a committee, what is the recourse to collect  
3           this for the Arkansas Department of Health  
4           Cosmetology Section?

5           THE WITNESS: We can send it over to the  
6           prosecuting, right, attorney, or we send it  
7           over to someone. We can, if they don't pay it.

8           MS. PITMAN: We can --

9           THE WITNESS: Yeah.

10          MS. PITMAN: -- but not the prosecuting  
11          attorney but we can still --

12          THE WITNESS: Yeah, sorry. Sorry.

13          MS. ANDERSON: Okay. So it would be the  
14          committee's decision or that would be the  
15          department's decision?

16          MS. PITMAN: I think that's our decision.

17          THE WITNESS: Yeah.

18          MS. ANDERSON: Before we get into that  
19          discussion.

20          HEARING OFFICER JONES: Further questions  
21          from the board?

22          MS. SULLIVAN: And to my understanding,  
23          all of the previous fines and violations have  
24          not been paid?

25          THE WITNESS: (Shaking head from side to

1 side.)

2 MS. SULLIVAN: The payments were set up  
3 but never paid?

4 THE WITNESS: Correct.

5 MS. PECK: Has she tried to pay?

6 THE WITNESS: No.

7 MS. PECK: She has not even come forward?  
8 Okay.

9 THE WITNESS: She -- I mean, when she --  
10 when I've been talking to her, she stated that  
11 she wasn't aware of the previous violations,  
12 even though she set up payment arrangements for  
13 them. And we -- we sent her all of these  
14 documents with her signatures on it, and she  
15 said that someone must have signed for her.

16 MS. STEELE: They look like the same  
17 signature.

18 THE WITNESS: Yeah.

19 MS. STEELE: I'm not an expert.

20 HEARING OFFICER JONES: Okay. Any  
21 questions from board members for Ms. Kersey?

22 MS. SULLIVAN: Are there any other  
23 recommendations of the -- that you may have or  
24 the department may have, other than the \$400  
25 just --

1 THE WITNESS: Well, on the previous  
2 offense, so --

3 MS. SULLIVAN: Yeah, just the -- just  
4 paying that.

5 THE WITNESS: And she has to renew, I  
6 mean, obviously she has to renew.

7 HEARING OFFICER JONES: Further questions  
8 from the board for Ms. Kersey?

9 MS. ANDERSON: Okay. At this time we have  
10 the right to do all of the above as far as to  
11 revoke or suspend the license as well as fine?  
12 Is that correct?

13 MS. PITMAN: You have the authority to do  
14 any of those things, yes.

15 MS. ANDERSON: Okay.

16 HEARING OFFICER JONES: Further questions  
17 from the board for Ms. Kersey?

18 If there are none, thank you very much.

19 Ms. Pitman, anything further?

20 MS. PITMAN: Just --

21 HEARING OFFICER JONES: Just a closing?

22 MS. PITMAN: Yes.

23 HEARING OFFICER JONES: Okay. Go right  
24 ahead.

25 MS. PITMAN: Just in closing to clarify,

1           we mentioned past violations so that you can  
2           consider those in assessing what you want to  
3           penalize her for for the current violations,  
4           there has already been an agreement between  
5           your board and her to pay the \$1,975, so that's  
6           already been issued and ordered. We're here  
7           today on the new violations for 29 --  
8           10/29/13 and 5/9/14, which are again repeat  
9           violations, she again does not have a current  
10          license, does not have it posted, she is aware  
11          of the need to do so, she is aware of the need  
12          to keep her salon in clean repairs, she's been  
13          notified about that twice as well by two  
14          inspections, that's what we would like you to  
15          consider today.

16                HEARING OFFICER JONES: Okay. At this  
17          time the record will be closed for the board's  
18          recess for deliberations. Once the board  
19          reaches its decision, we will then go back on  
20          the record.

21                (WHEREUPON, the Committee retired to  
22          deliberate, off the record, from 11:15 a.m. to  
23          11:26 a.m. and returned with the following  
24          decision:)

25                HEARING OFFICER JONES: All right. At



1           this time we'll go back on the record for the  
2           board's decision. Is there a motion?

3           MS. FORD: I would like to make a motion  
4           on Trinia's Diamond Hair Care Salon and Trinia  
5           Surratt, that there be a revocation put in  
6           place for the individual license and the  
7           establishment license and that notice be sent,  
8           and that we would like to recommend to our  
9           section and our attorney for further litigation  
10          and collection on the arrears, and we're going  
11          to go with the section's recommendation for the  
12          400 for the fine.

13          MS. JACKSON: And I'll second that.

14          MS. PITMAN: Can I, before we vote, make a  
15          point to the difference between revocation and  
16          suspension. If you're giving her a time period  
17          in which she can do something to get her  
18          license back in full standing, that's really a  
19          suspension, not a revocation, so that's what  
20          you're asking to do is suspend her license  
21          until she pays all of her fines, and that she  
22          would be allowed to get them back if she pays  
23          them without coming back before you. If you  
24          want to revoke it, she would have to come back  
25          before you.

1 MS. JACKSON: Yes. That's what -- what  
2 we're -- we're talking about.

3 MS. FORD: Okay. Because with a  
4 suspension --

5 MS. PITMAN: That's not what you worded,  
6 though.

7 MS. FORD: Revocation.

8 MS. ANDERSON: Revocation is not revoking,  
9 is what she just --

10 MS. PITMAN: Well, the way you worded it  
11 you said until she paid her fines, you did not  
12 talk about coming back here, so --

13 MS. FORD: Yeah, we -- well, okay, I  
14 didn't say it in the motion. Okay. Do you  
15 want me to start over?

16 MS. PITMAN: Sure.

17 MS. FORD: Okay. I would like to make a  
18 motion that Trinia Surratt's Diamond Hair Care  
19 Salon, the -- that we go with the findings from  
20 the section or the recommendation from the  
21 section for the \$400 fine. We would also like  
22 to make a recommendation for revocation of the  
23 individual and the salon establishment license.  
24 We would also like to recommend that the  
25 section and the attorney seek collections,

1 further collections on the arrears.

2 HEARING OFFICER JONES: Is there a second?

3 MS. JACKSON: I -- because I want to  
4 make -- I second that.

5 HEARING OFFICER JONES: Is everybody  
6 clear?

7 Okay. There's a motion and a second. Go  
8 right ahead.

9 MS. ANDERSON: All of those in favor,  
10 Adrian?

11 MR. TABB: Aye.

12 MS. STEELE: Aye.

13 MS. PECK: Aye.

14 MS. JACKSON: Aye.

15 MS. SULLIVAN: Aye.

16 MS. FORD: Aye.

17 MS. ANDERSON: Aye. Motion passes.

18 HEARING OFFICER JONES: Very well. Let  
19 the record reflect the decision of the board is  
20 unanimous. Please reduce the board's decision  
21 to writing and make or attempt service upon all  
22 parties. If the respondent cares to appeal the  
23 decision, an appeal may be taken under the  
24 specific provisions of this board or Arkansas  
25 Code Annotated 25-15-201.

1                   Are there any other questions or comments  
2                   related to this hearing?   Seeing none, the  
3                   record is closed.

4                   Thank you very much.

5                   (WHEREUPON, at 11:29 a.m., the  
6                   above-entitled proceedings were concluded.)

7                   ---o---

1           Kelli Kersey gave an update regarding the electronic  
2 inspection system to start testing this week.

3           Alan Anderson, Academy Salon and Spa, Fort Smith,  
4 Arkansas, spoke in support of the CTAC and the Department  
5 of Health in pending lawsuit.

6           Chris Strawn, Owner, Arthur's Beauty College, spoke  
7 in support of notifying appropriate authorities about  
8 actions taken against schools.

9                       (WHEREUPON, at 11:38 a.m., the  
10                      above-entitled proceedings were concluded.)

11                               ---o---

1  
2  
3 CERTIFICATE

4 STATE OF ARKANSAS )

5 COUNTY OF PULASKI )

6 I, SUSAN B. WHITSON, Certified Court Reporter  
7 and notary public in and for Pulaski County, State of  
8 Arkansas, do hereby certify that the meeting and hearings  
9 held before the Cosmetology Technical Advisory Committee,  
10 July 21, 2014, were taken by me in Stenotype and were  
11 reduced to computer-generated typewritten form by me or  
12 under my direction and supervision; that the witnesses  
13 were duly sworn by the Hearing Officer; and that the same  
14 is a true and correct reflection of the proceedings that  
15 occurred, to the best of my knowledge and ability.

16 I FURTHER CERTIFY that I am neither counsel  
17 for, related to, nor employed by any of the parties to  
18 the action in which these proceedings were taken; and,  
19 further that I am not a relative or employee of any  
20 attorney or counsel employed by the parties hereto, nor  
21 financially interested, or otherwise, in the outcome of  
22 this action; and that I have no contract with the  
23 parties, attorneys, or persons with an interest in the  
24 action that affects or has a substantial tendency to  
25 affect impartiality, that requires me to relinquish

1 control of an original transcript or copies of the  
2 transcript before it is certified and delivered to the  
3 custodial attorney, or that requires me to provide any  
4 service not made available to all parties to the action.

5 SIGNED AND SWORN this \_\_\_\_\_ day of

6 \_\_\_\_\_.

7  
8  
9  
10  
11  
12 \_\_\_\_\_  
13 SUSAN B. WHITSON, CCR, #158  
14 NOTARY COMMISSION #12388076  
15 NOTARY PUBLIC IN AND FOR  
16 PULASKI COUNTY, ARKANSAS  
17

18 My Commission Expires: June 4, 2022.  
19  
20

21 ---o---  
22  
23  
24  
25